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10/520,732	12/07/2005	Yoji Ito	030662-116	9381

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EXAMINER
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BRIGGS, NATHANAEL R

ART UNIT	PAPER NUMBER
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2871

NOTIFICATION DATE	DELIVERY MODE
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12/19/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	Application No. 10/520,732	Applicant(s) ITO ET AL.	
	Examiner Nathanael R. Briggs	Art Unit 2871	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/27/07.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11, 13, 14 and 19-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-4, 6-11, 13-14, and 19-22 have been considered but are moot in view of the new ground(s) of rejection.
2. The affidavit under 37 CFR 1.132 filed 27 September 2007 is insufficient to overcome the rejection of claims 1-4, 6-11, 13-14, and 19-22 based upon the rejection as set forth in the last Office action because: No 35 USC § 103 rejection has been made of record, and therefore, Applicant's submission of the affidavit corresponds to a future rejection. In the current Office Action, new rejections of claims 1 and 8 are written to address the evidence presented in the affidavit. Particularly, the issue of whether the result of the addition of the fluorine-containing polymer into the liquid crystal layer yields surprising or unexpected results based on the prior art. In fact, given from Table 9 of Yokoyama et al. (US 6,380,996), it seems that the use of fluorine-containing polymers in a similar compensation sheet yields viewing angle results similar to those of the affidavit. Therefore, the affidavit, without having the Applicant's response to this rejection in light of the evidence, is ineffective.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**4. Claims 1-4, 6-7, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aminaka (US 6,064,457) in view of Yokoyama et al. (US 6,380,996).**

5. Regarding claim 1, Aminaka discloses an LCD (see figures 3-8, for instance) having a liquid crystal cell (10) of bend alignment mode and a pair of polarizing plates (34A, 34B) provided on both sides of the cell (10), wherein at least one of the polarizing plates (34A, 34B) comprises a polarizing membrane (34) and an optical compensatory film (31, 33) positioned nearer to the liquid crystal cell (10) than the polarizing membrane (34), said optical compensatory film (31, 33) having at least two optically anisotropic layers comprising first (31A) and second (33A) optically anisotropic layers, said first optically anisotropic layer (31A) being made from discotic compounds (31a-e) oriented in hybrid alignment (column 12, lines 20-21), said second optically anisotropic layer (33A) consisting of a cellulose ester film (column 20, lines 42-46), and said polarizing membrane (34) and said first (31A) and second (33A) optically anisotropic layers being so placed that the first optically anisotropic layer (31A) giving in plane the maximum refractive index in a direction (RD1) of essentially  $45^{\circ}$  to a transmission axis (TA1) in plane of the polarizing membrane (34), and that the second optically anisotropic layer (33A) gives in plane the maximum refractive index in a direction (SA1) essentially parallel or perpendicular to a transmission axis (TA1) in plane of the polarizing membrane (34), and wherein the liquid crystal cell of bend alignment mode (10) and the first (31) and second (33) optically anisotropic layers have optical characteristics satisfying the following formula (1) when measured at any wavelength of

450 nm, 550 nm and 630 nm:  $0.05 < (\Delta \cdot n \cdot d) / (Re1 \cdot Rth2) < 0.20$  (1); (using the values  $\Delta n \cdot d = 365.56$ , see column 27, lines 28-31;  $Re1 = 38$  nm (example 1);  $Rth2 = 100$  nm (example 1) yields a  $(\Delta \cdot n \cdot d) / (Re1 \cdot Rth2) = 0.0962$ ) in which  $\Delta \cdot n$  is an inherent birefringent index of rod-like liquid crystal molecules in the liquid crystal cell (10);  $d$  is a thickness of a liquid crystal layer (10) in the liquid crystal cell in terms of nm;  $Re1$  is a retardation value in plane of the first optically anisotropic layer (31); and  $Rth2$  is a retardation value along a thickness direction of the second optically anisotropic layer (33). However, Aminaka does not expressly disclose wherein the first optically anisotropic layer further contains a fluorine-containing polymer in the range of 0.005 to 8 wt. % based on the amount of components of a coating solution other than a solvent, and thereby wherein the optical compensatory film gives retardation values  $Re(0^\circ)$ ,  $Re(40^\circ)$ , and  $Re(-40^\circ)$  at 546 nm in the ranges of  $30 \pm 10$  nm,  $50 \pm 10$  nm and  $115 \pm 10$  nm, respectively, wherein values  $Re(0^\circ)$ ,  $Re(40^\circ)$  and  $Re(-40^\circ)$  are retardation values of the optical compensatory film when the retardation is measured, in a plane including the normal of the film and the direction in the film plane the minimum refractive index of the optical compensatory film, in the directions inclined at  $0^\circ$ ,  $40^\circ$  and reversely  $40^\circ$  from the normal to the plane, respectively.

6. Regarding claim 1, Yokoyama discloses an optical compensatory sheet (see figures 1-2, for instance), having discotic liquid crystal molecules as the first anisotropic layer (22a-d), wherein the first optically anisotropic layer further contains a fluorine-containing polymer (column 17, lines 33-36) in the range of 0.005 to 8 wt. % (see MPEP § 2144.05 for doctrine of overlapping ranges) based on the amount of components of a

coating solution other than a solvent. In addition, with this structure, as identical to that of claim 1 of the present application, it can be expected that the optical compensatory film gives retardation values  $Re(0^\circ)$ ,  $Re(40^\circ)$ , and  $Re(-40^\circ)$  at 546 nm in the ranges of  $30 \pm 10$  nm,  $50 \pm 10$  nm and  $115 \pm 10$  nm, respectively, wherein values  $Re(0^\circ)$ ,  $Re(40^\circ)$  and  $Re(-40^\circ)$  are retardation values of the optical compensatory film when the retardation is measured, particularly in light of the viewing angles presented in Table 9 of Yokoyama, in a plane including the normal of the film and the direction in the film plane the minimum refractive index of the optical compensatory film, in the directions inclined at  $0^\circ$ ,  $40^\circ$  and reversely  $40^\circ$  from the normal to the plane, respectively, as confirmed in the affidavit filed by Applicant on 27 September 2007.

7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the fluorine surface agent of Yokoyama in the optical compensation layer of Aminaka. The motivation for doing so would have been to gain a wide viewing angle with rapid response in an LCD of bend alignment mode, as taught by Yokoyama (column 3, lines 52-63). Claim 1 is therefore unpatentable.

8. Regarding claim 2, Aminaka in view of Yokoyama discloses the LCD as defined in claim 1 (see Aminkaka figures 4-8; Yokoyama figures 1-2, for instance), and Aminaka further discloses wherein the  $\Delta \cdot n \cdot d$  satisfies the following formula (2) when measured at any wavelength of 450 nm, 550 nm and 630 nm:  $100 \text{ nm} < \Delta \cdot n \cdot d < 1,500 \text{ nm}$ . (2) (see above). Claim 2 is therefore unpatentable.

9. Regarding claim 3, Aminaka in view of Yokoyama discloses the LCD as defined in claim 1 (see Aminkaka figures 4-8; Yokoyama figures 1-2, for instance), and Aminaka

further discloses wherein the  $Re_1$  satisfies the following formula (3) when measured at any wavelength of 450 nm, 550 nm and 630 nm:  $10\text{ nm} < Re_1 < 50\text{ nm}$ . (3) ([0454]). Claim 3 is therefore unpatentable.

10. Regarding claim 4, Aminaka in view of Yokoyama discloses the LCD as defined in claim 1 (see Aminkaka figures 4-8; Yokoyama figures 1-2, for instance), and Aminaka further discloses wherein the  $R_{th2}$  satisfies the following formula (4) when measured at any wavelength of 450 nm, 550 nm and 630 nm:  $70\text{ nm} < R_{th2} < 400\text{ nm}$ . (4) (Table 1). Claim 4 is therefore unpatentable.

11. Regarding claim 6, Aminaka in view of Yokoyama discloses the LCD as defined in claim 1 (see Aminkaka figures 4-8; Yokoyama figures 1-2, for instance), and Aminaka further discloses wherein the direction (perpendicular to SA) giving in the film plane the minimum refractive index of the optical compensatory film is essentially at  $45^\circ$  to a longitudinal direction (RD) when the optical compensatory film is produced. Claim 6 is therefore unpatentable.

12. Regarding claim 7, Aminaka in view of Yokoyama discloses the LCD as defined in claim 1 (see Aminkaka figures 4-8; Yokoyama figures 1-2, for instance), and Aminaka further discloses wherein the optical compensatory film (131, 133) and the polarizing membrane (134) are laminated by attaching the film in the form of a roll to the membrane in the form of a roll ([0750]). Claim 7 is therefore unpatentable.

13. Regarding claim 19, Aminaka in view of Yokoyama discloses the LCD as defined in claim 1 (see Aminkaka figures 4-8; Yokoyama figures 1-2, for instance), and Aminaka

further discloses wherein the fluorine-containing polymer has a weight average molecular weight of 3,000 to 100,000. Claim 19 is therefore unpatentable.

14. Regarding claim 20, Aminaka in view of Yokoyama discloses the LCD as defined in claim 1 (see Aminkaka figures 4-8; Yokoyama figures 1-2, for instance), and Aminaka further discloses wherein the fluorine-containing polymer is a copolymer comprising fluorine-containing repeating units and units derived from polyoxyalkylene (meth)acrylate. Claim 20 is therefore unpatentable.

15. **Claims 8-11, 13-14, and 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Aminaka (US 6,064,457) in view of Watanabe (US 6,034,755) and in further view of Yokoyama et al. (US 6,380,996).**

16. Regarding claim 8, Aminaka discloses an LCD of reflection type (see figures 1 and 4-8, for instance) and a polarizing plate (34A,B) in order, wherein the polarizing plate (34A,B) comprises a polarizing membrane (34) and an optical compensatory sheet (31, 33) positioned nearer to the liquid crystal cell (10) than the polarizing membrane (34), said optical compensatory sheet (31, 33) having at least two optically anisotropic layers comprising first (31A) and second (33A) optically anisotropic layers, said first optically anisotropic layer (31A) being made from discotic compounds (31a-e) oriented in hybrid alignment (column 12, lines 20-21), said second optically anisotropic layer (33A) consisting of a cellulose ester film (column 20, lines 42-46), and said polarizing membrane (34) and said first (31A) and second (33A) optically anisotropic layers being so placed that the first optically anisotropic layer (31A) giving in plane the maximum refractive index in a direction (RD1) of essentially 45° to a transmission axis (TA1) in



plane of the polarizing membrane (34), and that the second optically anisotropic layer (33A) gives in plane the maximum refractive index in a direction (SA1) essentially parallel or perpendicular to a transmission axis (TA1) in plane of the polarizing membrane (34), and wherein the liquid crystal cell of bend alignment mode (10) and the first (31) and second (33) optically anisotropic layers have optical characteristics satisfying the following formula (1) when measured at any wavelength of 450 nm, 550 nm and 630 nm:  $0.05 < (\Delta \cdot n \cdot d) / (Re1 \cdot Rth2) < 0.20$  (1); (using the values  $\Delta n \cdot d = 365.56$ , see column 27, lines 28-31;  $Re1 = 38$  nm (example 1);  $Rth2 = 100$  nm (example 1) yields a  $(\Delta \cdot n \cdot d) / (Re1 \cdot Rth2) = 0.0962$ ) in which  $\Delta \cdot n$  is an inherent birefringent index of rod-like liquid crystal molecules in the liquid crystal cell (10);  $d$  is a thickness of a liquid crystal layer (10) in the liquid crystal cell in terms of nm;  $Re1$  is a retardation value in plane of the first optically anisotropic layer (31); and  $Rth2$  is a retardation value along a thickness direction of the second optically anisotropic layer (33). However, Aminaka does not expressly disclose a reflection board and a liquid crystal cell of hybrid alignment mode; or wherein the first optically anisotropic layer further contains a fluorine-containing polymer in the range of 0.005 to 8 wt. % based on the amount of components of a coating solution other than a solvent, and thereby wherein the optical compensatory film gives retardation values  $Re(0^\circ)$ ,  $Re(40^\circ)$ , and  $Re(-40^\circ)$  at 546 nm in the ranges of  $30 \pm 10$  nm,  $50 \pm 10$  nm and  $115 \pm 10$  nm, respectively, wherein values  $Re(0^\circ)$ ,  $Re(40^\circ)$  and  $Re(-40^\circ)$  are retardation values of the optical compensatory film when the retardation is measured, in a plane including the normal of the film and the direction in the film plane the minimum refractive index of the optical compensatory film,

in the directions inclined at  $0^\circ$ ,  $40^\circ$  and reversely  $40^\circ$  from the normal to the plane, respectively.

17. Regarding claim 8, Watanabe disclosed a hybrid alignment LCD having a reflecting plate (column 1, lines 63-65).

18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the reflective HAN mode LCD of Watanabe in the LCD of Aminaka. The motivation for doing so would have been to use conventional and similar technologies in the art to achieve wide viewing angle, as taught by Watanabe (column 1, lines 66-67; column 2, line 1).

19. Regarding claim 8, Yokoyama discloses an optical compensatory sheet (see figures 1-2, for instance), having discotic liquid crystal molecules as the first anisotropic layer (22a-d), wherein the first optically anisotropic layer further contains a fluorine-containing polymer (column 17, lines 33-36) in the range of 0.005 to 8 wt. % (see MPEP § 2144.05 for doctrine of overlapping ranges) based on the amount of components of a coating solution other than a solvent. In addition, with this structure, as identical to that of claim 1 of the present application, it can be expected that the optical compensatory film gives retardation values  $Re(0^\circ)$ ,  $Re(40^\circ)$ , and  $Re(-40^\circ)$  at 546 nm in the ranges of  $30 \pm 10$  nm,  $50 \pm 10$  nm and  $115 \pm 10$  nm, respectively, wherein values  $Re(0^\circ)$ ,  $Re(40^\circ)$  and  $Re(-40^\circ)$  are retardation values of the optical compensatory film when the retardation is measured, particularly in light of the viewing angles presented in Table 9 of Yokoyama, in a plane including the normal of the film and the direction in the film plane the minimum refractive index of the optical compensatory film, in the directions

inclined at 0°, 40° and reversely 40° from the normal to the plane, respectively, as confirmed in the affidavit filed by Applicant on 27 September 2007.

20. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the fluorine surface agent of Yokoyama in the optical compensation layer of Aminaka in view of Watanabe. The motivation for doing so would have been to gain a wide viewing angle with rapid response in an LCD of bend alignment mode, as taught by Yokoyama (column 3, lines 52-63). Claim 8 is therefore unpatentable.

21. Regarding claim 9, Aminaka in view of Watanabe and in further view of Yokoyama discloses the LCD as defined in claim 8 (see Aminaka figures 1 and 4-8; Yokoyama figures 1-2, for instance), and Aminaka further discloses wherein the  $\Delta n \cdot d$  satisfies the following formula (6) when measured at any wavelength of 450 nm, 550 nm and 630 nm:  $50 \text{ nm} < \Delta n \cdot d < 750 \text{ nm}$ . (6) (see above). Claim 9 is therefore unpatentable.

22. Regarding claim 10, Aminaka in view of Watanabe and in further view of Yokoyama discloses the LCD as defined in claim 8 (see Aminaka figures 1 and 4-8; Yokoyama figures 1-2, for instance), and Aminaka further discloses wherein the  $Re1$  satisfies the following formula (7) when measured at any wavelength of 450 nm, 550 nm and 630 nm:  $10 \text{ nm} < Re1 < 50 \text{ nm}$ . (7) (column 11, lines 32-38). Claim 10 is therefore unpatentable.

23. Regarding claim 11, Aminaka in view of Watanabe and in further view of Yokoyama discloses the LCD as defined in claim 8 (see Aminaka figures 1 and 4-8;

Yokoyama figures 1-2, for instance), and Aminaka further discloses wherein the  $R_{th2}$  satisfies the following formula (8) when measured at any wavelength of 450 nm, 550 nm and 630 nm:  $70\text{ nm} < R_{th2} < 400\text{ nm}$ . (8) (column 11, lines 45-49). Claim 11 is therefore unpatentable.

24. Regarding claim 13, Aminaka in view of Watanabe and in further view of Yokoyama discloses the LCD as defined in claim 8 (see Aminaka figures 1 and 4-8; Yokoyama figures 1-2, for instance), and Aminaka further discloses wherein the direction giving in the film plane the minimum refractive index of the optical compensatory film is essentially at  $45^\circ$  to a longitudinal direction when the optical compensatory film is produced. Claim 13 is therefore unpatentable.

25. Regarding claim 14, Aminaka in view of Watanabe and in further view of Yokoyama discloses the LCD as defined in claim 8 (see Aminaka figures 1 and 4-8; Yokoyama figures 1-2, for instance), and Aminaka further discloses wherein the optical compensatory film and the polarizing membrane are laminated by attaching the film in the form of a roll to the membrane in the form of a roll (column 3, lines 1-20). Claim 14 is therefore unpatentable.

26. Regarding claim 21, Aminaka in view of Watanabe and in further view of Yokoyama discloses the LCD as defined in claim 8 (see Aminaka figures 1 and 4-8; Yokoyama figures 1-2, for instance), and Yokoyama further discloses wherein the fluorine-containing polymer has a weight average molecular weight of 3,000 to 100,000. Claim 21 is therefore unpatentable.

27. Regarding claim 22, Aminaka in view of Watanabe and in further view of Yokoyama discloses the LCD as defined in claim 8 (see Aminaka figures 1 and 4-8; Yokoyama figures 1-2, for instance), and Yokoyama further discloses wherein the fluorine-containing polymer is a copolymer comprising fluorine-containing repeating units and units derived from polyoxyalkylene (meth)acrylate. Claim 22 is therefore unpatentable.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathanael R. Briggs whose telephone number is (571)

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272-8992. The examiner can normally be reached on 9 AM - 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (571) 272-1787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathanael Briggs  
12/13/07

  
ANDREW SCHECHTER  
PRIMARY EXAMINER